

SENATE BILL 2363

By Bunch

AN ACT to amend Chapter 48 of the Private Acts of 1919; as amended by Chapter 206 of the Private Acts of 1949; and any other acts amendatory thereto, relative to Charter of the City of Niota.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Chapter 48 of the Private Acts of 1919; as amended by Chapter 206 of the Private Acts of 1949; and any other acts amendatory thereto, is amended by deleting the chapter in its entirety and by substituting instead the following:

ARTICLE I

CORPORATE CAPACITY

Section 1. Incorporation. That the City of Niota, in the County of McMinn, and the inhabitants thereof, are hereby constituted a body politic and corporate, under the name of the City of Niota and shall have perpetual succession as a municipal corporation, and by the corporate name may sue and be sued, plead and be pled, in all the courts of law and equity in this state may require and hold real and personal property within or beyond the limits of said city for all municipal purposes; and may sell, lease, or dispose of same for the benefit of said city; and may have and use a corporate seal changeable at pleasure.

Section 2. Boundaries. The boundaries of Niota shall embrace that section of McMinn County, Tennessee, comprised within the following metes and bounds to wit:

Beginning at a point eight hundred feet (800') east of the old road on the ridge southeast of the City of Niota, in line with the east and west line that runs south of the R. A. Johnson property; thence west with the aforesaid east and west

line to the west side of the Southern Railway right-of-way; thence southwest with said right-of-way to the line between J. G. Willson and J. C. Cate; thence west, passing between the residences of J. C. Cate III and J. G. Willson, to the west side of the Lee Highway; thence southwest with said Lee Highway eight hundred feet (800'); thence west to a point eight hundred feet (800') perpendicular from Little Mouse Creek; thence in a northeasternly direction up the valley, parallel with the creek but eight hundred feet (800') therefrom, to the property line of Tom Sherman and Tola S. Walker; thence west with said Sherman-Walker property line to their southwest corner; thence in a northernly direction to the northwest corner of the J. P. Brady barn on top of the hill; thence in a northernly direction, passing to the west of the Will Arnwine residence, to a point eight hundred (800') perpendicular to and northeast of the Union Grove Road; thence in a southeasternly direction, passing to the north of the Sherman-Walker residence, to the southeast side of Willson Street, (the Lee Highway); thence northeast with the southeast side of Willson Street (the Lee Highway) to the intersection of old Niota-Sweetwater graded road; thence south with the west side of said road to the northwest side of the Southern Railway right-of-way to the present city limits; thence southeast across the railroad and right-of-way; thence in an easternly direction, passing fifty feet (50') north of the residence of Tom Brakebill, to a point eight hundred feet (800') perpendicular to the old Niota-Sweetwater graded road; thence south to the eastern brow of the ridge; thence in a southwesternly direction with the eastern brow of the ridge passing to the southeast of the residences of Otis Cobble, Leslie DeWitt and Nannie Moree, also southeast of the city water reservoir, to the point of the beginning and the inhabitants thereof are hereby incorporated as a municipality under the name and style of City of Niota.

In addition to the boundaries described herein, the City's boundaries shall include any property or areas annexed subject to Chapter 48 of the Private Acts of 1919.

## ARTICLE II

### POWERS

Section 1. Powers enumerated. The Mayor and Board of Commissioners shall have the power to:

(1) Assess, levy and collect taxes for all general and special purposes on all subjects or objects of taxation, and privileges taxable by law for state, county or municipal purposes;

(2) Adopt classifications of the subjects and objects of taxation that are not contrary to law;

(3) Make special assessments for local improvements;

(4) Contract and be contracted with;

(5) Incur debts by borrowing money or otherwise, and give any appropriate evidence thereof, in the manner hereinafter provided;

(6) Issue and give, sell, pledge or in any manner dispose of, negotiable or nonnegotiable interest-bearing or noninterest-bearing bonds in accordance with Tennessee Code Annotated, Title 9, Chapter 21, warrants, promissory notes or orders of the municipality, upon the credit of the municipality or solely upon the credit of specific property owned by the municipality or solely upon the credit of income derived from any property used in connection with any public utility owned or operated by the municipality, or solely upon the credit of the proceeds of special assessments for local improvements, or upon any two (2) or more such credits;

(7) Expend the money of the municipality for all lawful purposes;

(8) Acquire or receive and hold, maintain, improve, sell, lease, mortgage, pledge or otherwise dispose of property, real or personal, and any estate or interest therein, within or without the municipality or state;

(9) Condemn property, real or personal, or any easement, interest, or estate or use therein, either within or without the municipality, for present

or future public use; the condemnation shall be effected in accordance with the terms and provisions of Tennessee Code Annotated, Title 29, Chapter 16, or in any other manner provided by law;

(10) Take and hold property within or without the municipality or state upon trust; and administer trusts for the public benefit;

(11) Acquire, construct, own, operate, and maintain, or sell, lease, mortgage, pledge or otherwise dispose of public utilities or any estate or interest therein, or any other utility of service to the municipality, its inhabitants, or any part thereof, and, further, may issue debt for these purposes in accordance with Tennessee Code Annotated, Title 9, Chapter 21.

(12) Grant to any person, firm, association or corporation, including the municipality franchises for public utilities and public services to be furnished the municipality and those therein. The power to grant franchises shall embrace the power to grant exclusive franchises. Whenever an exclusive franchise is granted, it shall be exclusive not only as against any other person, firm, association, or corporation, but also against the municipality itself. Franchises may be granted for a period of twenty-five (25) years or less, but not longer. The Board may prescribe in each grant of a franchise, the rate, fares, charges and regulations that may be made by the grantee of the franchise in accordance with state and federal law. Franchises may by their terms apply to the territory within the corporate limits of the municipality at the date of the franchises, and as the corporate limits thereafter may be enlarged; and to the existing streets, alleys and thoroughfares that thereafter may be opened;

(13) Make contracts with any person, firm, association or corporation for public utilities, and public services to be furnished the municipality and those therein. The Board shall approve all contracts, and the Mayor shall sign the approved contracts as witnessed by the Recorder. The power to make contracts shall embrace the power to make exclusive contracts. When an

exclusive contract is entered into, it shall be exclusive against any other person, firm, association or corporation. These contracts may be entered into for a period of twenty-five (25) years or less, but not longer. The Board may prescribe in each such contract entered into, the rates, fares, charges, and regulations that may be made by the person, firm, association or corporation with whom the contract is made in accordance with state and federal law. Such contracts may by their terms apply to the territory within the corporate limits of the municipality at the date of the contract, and as the corporate limits thereafter may be enlarged, and to the then existing streets, alleys and thoroughfares and to any other streets, alleys and other thoroughfares that thereafter may be opened;

(14) Prescribe reasonable regulations regarding the construction, maintenance, equipment, operation and service of public utilities, compel reasonable extensions of facilities for these services, and assess fees for the use of or impact upon these services. Nothing herein shall be construed to permit the alteration or impairment of any of the terms or provisions of any exclusive franchise granted or of any exclusive contract entered into under subdivisions (12) and (13);

(15) Establish, open, relocate, vacate, alter, widen, extend, grade, improve, repair, construct, reconstruct, maintain, light, sprinkle and clean public highways, streets, boulevards, parkways, sidewalks, alleys, parks, public grounds, public facilities, libraries and squares, wharves, bridges, viaducts, subways, tunnels, sewers and drains within or without the corporate limits, regulate their use within the corporate limits, assess fees for the use of or impact upon such property and facilities, and take and appropriate property therefore under the provisions of Tennessee Code Annotated, § 7-31-107 through § 7-31-111 and § 29-16-114, or any other manner provided by general laws;

(16) Construct, improve, reconstruct and reimprove by opening,

extending, widening, grading, curbing, guttering, paving, graveling, macadamizing, draining or otherwise improving any streets, highways, avenues, alleys or other public places within the corporate limits, and assess a portion of the cost of these improvements on the property abutting on or adjacent to these streets, highways or alleys under, and as provided by, state law or any other manner provided by Tennessee Code Annotated, Title 7, Chapter 32;

(17) Assess against abutting property within the corporate limits the cost of planting shade trees, removing from sidewalks all accumulations of snow, ice, and earth, cutting and removing obnoxious weeds and rubbish, street lighting, street sweeping, street sprinkling, street flushing and street oiling, the cleaning and rendering sanitary or removal, abolishing, and prohibiting of closets and privies, in such manner as may be provided by general law or by ordinance of the board;

(18) Acquire, purchase, provide for, construct, regulate and maintain and do all things relating to all marketplaces, public buildings, bridges, sewers and other structures, works and improvements;

(19) Collect and dispose of drainage, sewage, ashes, garbage, refuse or other waste, or to license and regulate such collection and disposal, and the cost of such collection, regulation, or disposal may be funded by taxation, special assessment to the property owner, user fees or other charges;

(20) License and regulate all persons, firms, corporations, companies and associations engaged in any business, occupation, calling, profession or trade not prohibited by law;

(21) Impose a license tax upon any animal, thing, business, vocation, pursuit, privilege or calling not prohibited by law;

(22) Define, prohibit, abate, suppress, prevent and regulate all acts, practices, conduct, business, occupations, callings, trades, use of property and all other things whatsoever detrimental, or liable to be detrimental, to the

health, morals, comfort, safety, convenience or welfare of the inhabitants of the municipality, and exercise general police powers;

(23) Prescribe limits within which such business occupations and practices liable to be nuisances or detrimental to the health, morals, security or general welfare of the people may lawfully be established, conducted or maintained;

(24) Inspect, test, measure and weigh any article for consumption or use within the municipality, and charge reasonable fees therefore, and provide standards of weights, tests and measures in such manner as may be provided by general law;

(25) Regulate the location, bulk, occupancy, area, lot, location, height, construction and materials of all buildings and structures in accordance with general law, and to inspect all buildings, lands and places as to their condition for health, cleanliness and safety, and when necessary, prevent their use and require any alteration or changes necessary to make them healthful, clean or safe;

(26) Provide and maintain charitable, educational, recreative, curative, corrective, detentive, or penal institutions, departments, functions, facilities, instrumentalities, conveniences and services;

(27)

(A) Enforce any ordinance, rule or regulation by fines, forfeitures, and penalties, and by other actions or proceedings in any court of competent jurisdiction.

(B) No fine may exceed fifty dollars (\$50.00) or the maximum allowable under general law, whichever is greater, for violation of municipal ordinances.

(28) Regulate, tax, license or suppress the keeping or going at large of animals within the municipality, impound them, and in default of redemption, sell or kill them;

(29) Call elections as herein provided;

(30) By ordinance, assess, impose, levy and collect impact fees from new land developments within the municipal limits, provided that the impact fees are limited to the reasonably anticipated costs of public improvements generated by such developments, and provided that the impact fee system and formula is prescribed by ordinance. However, no impact fee or adequate facilities tax shall be imposed that violates the provisions of the County Powers Relief Act, codified at Tennessee Code Annotated, Section 67-4-2901, et seq.

(31) To make regulations to secure the general health, safety and welfare of the inhabitants, and to require the owners of property to keep, maintain and repair their property in a manner both safe and conducive to the good health, safety and welfare of the citizens of the City. For that purpose the City shall have the right to adopt ordinances requiring property owners at their expense to repair, close or demolish unsafe and unhealthy structures on their property and requiring property owners that the expense to remove from their property unsafe and unhealthy manmade and natural material, including junk motorized and non-motorized vehicles of every kind and description, debris, trash, litter and garbage, and growth of vegetation, including weeds, trees, vines, grass, and underbrush, and upon the failure or refusal of any property owner to comply with such ordinances, to repair, close or demolish such structures, or to remove from the property such man-made and natural material at the City's expense. The City shall file with the register of deeds in the county where the property lies notice of the City's expense, which notice shall be a lien on the property in favor of the City, second only to liens of the state, county and city for property taxes, any lien of the City, for special assessments, and any valid lien, right or interest in such property duly recorded or perfected, prior to the filing of such notice, and the expenses shall be collected by the City's tax collector at the same time and in the same



manner as property taxes are collected; and

(32) Have and exercise all powers that now or hereafter it would be competent for this Charter specifically to enumerate, as fully and completely as though such powers were specifically enumerated herein.

### ARTICLE III

#### ELECTIONS

Section 1. Date of general city election. A general City election shall be held on the first Tuesday after the first Monday in November 2010 and each even numbered year thereafter.

Section 2. General election laws apply. All elections shall be conducted by the Commissioners of Elections of McMinn County in accordance with the general election laws and this Charter.

Section 3. Voter qualification requirements. Any person who is a resident of the City of Niota and qualified to vote for members of the General Assembly and other civil officers for McMinn County shall be entitled to vote in elections for Mayor, and Commissioner. The same qualifications for voting in all other City elections or referenda shall apply unless otherwise provided by law.

### ARTICLE IV

#### MAYOR AND BOARD OF COMMISSIONERS

Section 1. Composition, eligibility, election, terms, and re-election.

(a) Composition. There shall be a Mayor and Board of Commissioners composed of the Mayor and five (5) Commissioners.

(b) Eligibility. Only registered voters of the City who are bona fide citizens, and residents of the City, shall be eligible to seek and hold the office of Commissioner or Mayor.

(c) Election and Terms.

(1) The three (3) Commissioners elected in the general City election held on the first Tuesday of November of 2008 shall continue

to hold office until their successors are elected in the general City election held on the first Tuesday in November of 2012 . The Mayor and two (2) Commissioners elected in the general City election held on the first Tuesday of November of 2010 shall continue to hold office until their successors are elected in the general City election held on the first Tuesday in November 2014.

(2) It is the intent of this Charter to continue the existing pattern of staggered four (4) year terms for the positions of Mayor and Commissioner. The term of office for those City officials elected in November 2010 and in all even numbered years thereafter shall commence with them taking their oath of office at the first regular meeting of the Board of Commissioners following the certification of the election by the McMinn Commissioners.

(3) The Mayor and any Commissioner shall be eligible for re-election.

Section 2. Compensation; expenses. The compensation of the Mayor of the City of Niota shall be six hundred dollars (\$600) per year; that of each Commissioner three hundred dollars (\$300) per year. All salaries shall be paid in monthly installments, but any elected official failing to attend a regular meeting of the Mayor and Board of Commissioners shall not receive compensation for the month he fails to be present at such regular meeting, unless he is excused by the members attending the meeting. Any ordinance establishing or increasing salaries must receive final approval ninety (90) days prior to the next general City election and shall become effective for those officials elected at the next general City election and for the remaining officials elected two (2) years later. The Mayor and Board of Commissioners may receive their actual and necessary expenses incurred in the performance of their duties of office, if authorized by ordinance.

Section 3. Commissioner's Supervision. That the Mayor and Board of Commissioners shall, at the first regular meeting after their election and qualification,

designate by majority vote the member who shall have charge of the finances of the City, the member who shall have charge of the public safety, the member who shall have charge of the streets, alleys and public places of the City, the member who shall have charge of the public utilities and the member who shall have the supervision of sanitary conditions within the City.

The Commissioner of Finance and Taxation shall have general supervision of the finances of the City. The Commissioner of Public Safety shall have charge of the Police and Fire Departments. The Commissioner of Streets shall have general supervision of the streets, alleys, parks and all public places within the municipality and it shall be his duty to see that no fences or buildings shall encroach upon the established width of the streets, alleys and other public places within the City. The Commissioner of Public Utilities shall have general supervision of the water-works, and any public utility hereinafter established by the municipality. The Commissioner of Public Utilities shall also have general supervision of any sewage disposal system, when and if established. The Commissioner of Sanitation shall, as far as practicable, keep the City free from garbage and refuse of all kinds, and may make contracts for the removal of all refuse matter, as authorized by ordinances duly adopted.

The designation of any Commissioner as herein provided may be changed by a majority vote of the Mayor and Board of Commissioners, but they shall not shift any Commissioner from the head of one department to a head of another department more often than once in six (6) months.

Each Commissioner shall, at the meetings of the Board, make full report on all matters under his charge and such matters shall be acted on and approved or rejected by the Mayor and Board of Commissioners. All other matters not coming directly under either of the heads hereinabove assigned shall be handled by members of the Board jointly, or as may be agreed upon.

All officials and employees of the City of Niota shall be elected or appointed with reference to their qualifications and fitness for public service and without reference to their religious belief, or political or party affiliation.

Section 4. Quorum/Voting. The Mayor or Vice-Mayor and three (3)

Commissioners shall constitute a quorum for the transaction of business, but any smaller number may adjourn from day to day. The Mayor shall have no vote except in the case of a tie vote of the Commissioners, in which event the Mayor shall have the deciding vote. The affirmative vote of three (3) members of the Board of Commissioners, or of the Mayor or Vice-Mayor and two (2) members of the Board of Commissioners in case of a tie, will be necessary to adopt any motion, resolution or ordinance, or to pass any measure.

In the absence of the Mayor and Vice-Mayor, the Mayor and Board of Commissioners shall designate one of its members to preside at meetings who shall retain all the voting rights of a commissioner.

Section 5. Mayor.

(a) The Mayor:

(1) Shall be the Chief Executive Officer of the municipality and shall preside at meetings of the Board;

(2) Shall communicate any information needed, and recommend measures the mayor deems expedient to the board;

(3)

(A) Shall make temporary appointments of any officer or department head in case of absence, sickness or temporary disability.

(B) May be confirmed by the Board or the Board may otherwise appoint a person to fill the vacant office unless this duty has been delegated as authorized in this charter;

(4)

(A) May call special meetings of the Board upon adequate notice to the Board and adequate public notice;

(B) Shall state the matters to be considered at the special meeting, and the action of the Board shall be limited to those

matters submitted;

(5) Shall countersign checks and drafts drawn upon the treasury by the Treasurer and sign all contracts to which the municipality is a party unless this duty has been assigned to some other officer of the City by the Board;

(6) As a member of the Board, may make motions and shall not have a vote on all matters coming before the Board except in the event of a tie vote; and

(7) Shall make appointments to boards and commissions as authorized by law.

(b) Unless otherwise designated by the Board by ordinance, the Mayor shall perform the following duties, or the Mayor and Board of Commissioners may appoint a City Administrator to perform any of the following duties:

(1) Those duties set forth in Article V, Section 1(b) of this Charter, if the Board does not appoint a City Administrator or if someone else is not designated by the Board to perform those duties;

(2)

(A) Employ, promote, discipline, suspend and discharge all employees and department heads, in accordance with personnel policies and procedures, if any, adopted by the Board;

(B) Nothing in this Charter shall be construed as granting a property interest to employees or department heads in their continued employment;

(3) Act as purchasing agent for the municipality in the purchase of all materials, supplies and equipment for the proper conduct of the municipality's business; provided, that all purchases shall be made in accordance with policies, practices and procedures established by the Board, in accordance with Tennessee Code Annotated, Title 6, Chapter 56, Part 3;

(4) Prepare and submit the annual budget and capital program to

the Board for their adoption by ordinance; and

(5) Such other duties as may be designated or required by the Board.

Section 6. Vice-Mayor.

(a) The Board of Commissioners at the first regular meeting following each regular City election shall elect a member of the Board to the office of Vice-Mayor who shall serve as Mayor when the Mayor is absent or unable to discharge the duties of the Mayor's office, and, in case of a vacancy in the office of Mayor, for the remainder of the unexpired term.

(b) If the Vice-Mayor fills a vacancy in the office of Mayor, the remaining members of the Board shall fill a vacancy in the office of commissioner for the unexpired term, and they shall elect from their membership a new Vice-Mayor who shall serve until the first regular meeting of the Mayor and Board of Commissioners following the next regular City election.

(c) In the absence of the Mayor and Vice-Mayor the Commissioners shall designate one of its number to preside at meetings, who shall retain all of the voting rights of a commissioner.

Section 7. Prohibitions. Holding Other Office. No member of the Mayor and Board of Commissioners shall hold any other City, county, state or federal office during the term for which he was elected to Mayor and Board of Commissioners. No member of the Mayor and Board of Commissioners shall hold any other City office or employment during the terms for which he was elected to the Board of Commissioners. No former member of the Mayor and Board of Commissioners shall hold any compensated appointive office or employment with the City until after the expiration of the term for which elected or appointed to the Board of Commissioners. Nothing in this section shall be construed to prohibit the Mayor and Board of Commissioners from selecting any current or former member of the Mayor and Board of Commissioners to represent the City on the governing board of any regional or other intergovernmental agency.

Section 8. Vacancies; forfeiture of office; filling of vacancies.

(a) Vacancies. The office of Mayor or Commissioner shall become vacant upon the member's death, resignation, removal from office or forfeiture of office in any manner authorized by law.

(b) Forfeiture of Office. The Mayor or Commissioner shall forfeit that office if the Mayor or Commissioner:

(1) Lacks at any time during the term of office for which elected any qualification for the office prescribed by this Charter or by law,

(2) Violates any express prohibition of this Charter,

(3) Is convicted of a state or federal felony, appeals notwithstanding,

(4) Fails to attend three consecutive regular meetings of the Board of Commissioners without being excused by the Board of Commissioners, or

(5) Fails to maintain a bona fide residence within the City.

(c) Filling of Vacancies. That vacancies in the Board of Commissioners shall be filled by the remaining members of the board for the unexpired term, but only at a regular monthly meeting of the Mayor by death, resignation, removal from office, or temporary absence from the city, or in case of sickness, such vacancy shall be filled by a Vice-Mayor.

Section 9. Investigations. The Mayor and Board of Commissioners may make investigations into the affairs of the City and the conduct of any City department, office or agency and for this purpose may subpoena witnesses, administer oaths, take testimony and require the production of evidence.

Section 10. Time and place of meetings. Until otherwise provided by ordinance, regular meetings of the Mayor and Board of Commissioners shall be held on the second Monday of each month and special meetings may be called at any time by the Mayor or two (2) Commissioners. When such day falls on a legal holiday,

the meeting shall be on the next following day unless otherwise prescribed by the Board of Commissioners. Whenever in the opinion of the Mayor, the Vice-Mayor when acting as Mayor, or of any three (3) Commissioners, the welfare of the City demands it, the Recorder shall call a special meeting of the Board of Commissioners, by publishing or broadcasting a notice at least twenty-four (24) hours before the meeting. The notice shall state the matters to be considered at the special meeting and the action of the Board shall be limited to those matters. All meetings of the Mayor and Board of Commissioners, whether regular or special, shall be open to the public .

The Mayor shall preside at all meetings of the Mayor and Board of Commissioners and shall have general supervision of all matters pertaining to the government of the City.

Section 11. Oath of office. The Mayor and Board of Commissioners shall, before entering upon their duties, each take and subscribe and file with the Recorder an oath or affirmation to support the Constitution of the United States, and of the State of Tennessee and the Charter and Ordinances of the City of Niota, and that he will faithfully discharge the duties of his office.

Section 12. Procedure for adopting ordinances. All ordinances shall begin with the clause, "Be it ordained by the Mayor and Board of Commissioners of the City of Niota, Tennessee." An ordinance may be introduced by the Mayor or any of the five (5) Commissioners. The body of ordinances may be omitted from the minutes on first passage, but reference therein shall be made to the ordinance by title and subject matter. Every ordinance shall be passed on two (2) different days, at regular, special or adjourned meetings, with at least one (1) passage occurring at a regular meeting. Copies of the text of every ordinance must be made available to the public during every meeting in which the ordinance is subject to passage. Every ordinance must receive at least, a majority vote on each passage as defined in Section 10 of this Article. Every ordinance shall be effective upon final passage unless by its terms the effective date is deferred. Every ordinance upon final passage shall be signed by



the Mayor, and shall be immediately taken charge of by the Recorder and numbered, copied in an ordinance book, authenticated by the signature of the Recorder, and filed and preserved in the Recorder's office.

Section 13. Legislative action which must be exercised by ordinance. Except as otherwise provided by general law or this Charter, legislative action of the Board of Commissioners shall be by ordinance when granting, renewing or extending public franchises; creating, abolishing or combining departments or offices; authorizing the borrowing of money; regulating the rate charged for its services by a public utility; fixing fees, service charges and utility rates; levying taxes; providing a fine or other penalty or establishing a rule or regulation for violation of which a fine or other penalty is imposed; or amending or repealing an existing ordinance.

## ARTICLE V

### CITY ADMINISTRATOR

Section 1. Duties of city administrator.

(a) The Mayor and Board of Commissioners may appoint a full or part time City Administrator who shall serve at the will and pleasure of the Board. The City Administrator shall report and be responsible to the Mayor and Board of Commissioners. The City Administrator need not be a resident of the city at the time of his appointment, but must become a McMinn County resident within ninety (90) days after taking office.

(b) The Board shall, by ordinance, require the City Administrator to perform all of the following duties:

(1) Exercise each and all of the powers enumerated in Article IV, Section 5(b);

(2) Prepare and submit the annual budget and capital program to the Board for their adoption by ordinance;

(3) Administer the business of the city;

(4) Make recommendations to the board for improving the

quality and quantity of public services to be rendered by the officers and employees to the inhabitants of the city;

(5) Keep the Board fully advised as to the conditions and needs of the city;

(6) Report to the Board the condition of all property, real and personal, owned by the city and recommend repairs or replacements as needed;

(7) Recommend to the Board and suggest the priority of programs or projects involving public works or public improvements that should be undertaken by the city;

(8) Recommend specific personnel positions, as may be required for the needs and operations of the city, and may propose personnel policies and procedures for approval of the Board; and

(9) Perform such other duties as may from time to time be designated or required by the board.

Section 2. Vacancy in the office of city administrator. During a vacancy in the office of City Administrator, the Mayor and Board of Commissioners may appoint an acting City Administrator, may designate a department head as acting City Administrator or may assign the duties of the City Administrator to the Mayor.

Section 3.

(a) Appointments and Removals. All appointments and removals of city employees must be recommended by the Administrator and approved by the board. No member of the Mayor and Board of Commissioners shall in any manner dictate the appointment or removal of any city administrative officer or employee whom the City Administrator or any subordinate of the City Administrator is empowered to appoint, but members of the Mayor and Board of Commissioners may express their views and fully and freely discuss with the City Administrator anything pertaining to appointment and removal of such officers and employees.

(b) Interference with Administration. Except for the purpose of inquiries and investigations under Article IV, Section 9, the Mayor and Board of Commissioners or its members shall deal with City officers and employees who are subject to the direction and supervision of the City Administrator solely through the City Administrator, and neither the Mayor and Board of Commissioners nor its members shall give orders to any such officer or employee, either publicly or privately.

## ARTICLE VI

### CITY ATTORNEY

Section 1. Qualifications. The City Attorney shall be an attorney at law entitled to practice in the courts of the State of Tennessee.

Section 2. Appointment, duties, and compensation. The City Attorney shall be appointed by the Mayor and Board of Commissioners and shall direct the management of all litigation in which the City is a party, including the function of prosecuting attorney in the City court; represent the City in all legal matters and proceedings in which the City is a party or interested, or in which any of its officers is officially interested; attend all regular Board meetings and any other meetings when requested by the Mayor and Board of Commissioners; advise the Mayor and Board of Commissioners, and committees or members thereof, the City Administrator, and the heads of all departments and divisions as to all legal questions affecting the City's interests; and approve as to form all contracts, deeds, bonds, ordinances, resolutions and other documents to be signed in the name of or made by or with the City. The City Attorney's compensation shall be as fixed by the Mayor and Board of Commissioners and such person shall serve at the will of the board.

## ARTICLE VII

### RECORDER

Section 1. Appointment, compensation, and specific requirements, powers and duties of office. The Recorder shall be appointed by the Mayor and Board of Commissioners. The duties of the city recorder shall be designated by the Mayor and

Board of Commissioners, and shall receive a salary to be fixed by the Mayor and Board of Commissioners. The city recorder shall execute and file a corporate surety bond in the amount of twenty-five thousand dollars (\$25,000) before entering upon the discharge of duties of the office, and the premium for such bond shall be paid by the municipality at the regular rates. The cost of such bond shall be an expense of the City. When required, the Recorder shall, by signature and the City seal, attest instruments signed in the name of the City and official acts of the Mayor. The Recorder shall have power to administer oaths.

Section 2. Shall keep minutes. It shall be the duty of the Recorder to be present at all meetings of the Board of Commissioners and to keep a full and accurate record of all business transacted by the same, to be preserved in permanent book form.

Section 3. Shall be custodian of public records, bonds, etc. The Recorder shall have custody of and preserve in his office, the City seal, the public records, ordinance books, minutes of the Board of Commissioners, contracts, bonds, title deeds, certificates and papers, all official indemnity or security bonds except his own, which shall be in the custody of the Mayor, all other bonds, oaths and affirmations, all other records, papers and documents not required by this Charter or by ordinance to be deposited elsewhere, to be registered by numbers, dates and contents, and keep an accurate and modern index thereof.

Section 4. Shall provide and certify copies of records, papers, etc. The Recorder shall provide, and, when required by any officer or person, certify copies of records, papers and documents in his office and charge therefore in accordance with Tennessee Code Annotated, Section 10-7-503, for the use of the City, such fees as may be provided by ordinance and cause copies of ordinances to be printed, as may be directed by the Mayor and Board of Commissioners, and kept in his office for distribution.

Section 5. Keep records of fiscal affairs. The Recorder shall exercise a general supervision over the fiscal affairs of the City, including all enterprise funds, and

general accounting supervision over all the City's property, assets and claims. He shall be the general accountant and auditor of the City and shall have custody of all papers, records and vouchers relating to the fiscal affairs of the City. The records in his office shall show the financial operations and condition, property, assets, claims and liability of the City, all expenditures authorized and all contracts in which the City is interested. The Finance Commissioner shall review bank reconciliations, financial reports and balance sheets monthly for the board.

Section 6. Shall be Treasurer. The Recorder shall be the Treasurer of the City; as such it shall be his duty to collect, receive and receipt for the taxes and all other revenues and bonds of the City, and the proceeds of its bond issues, and to disburse the same.

Section 7. Shall perform any other duties imposed. The Recorder shall also

## ARTICLE VIII

### ADMINISTRATION

Section 1. Departments, offices, and agencies generally. The Mayor and Board of Commissioners may establish City departments, offices, or agencies in addition to those created by this Charter, and may prescribe the functions of all departments, offices and agencies not inconsistent with this Charter. Departments, offices and agencies created by the Mayor and Board of Commissioners may be abolished or combined.

Section 2. Personnel rules. The Mayor and Board of Commissioners shall adopt personnel rules which may include but not be limited to:

- (1) A job classification plan;
- (2) A pay plan; and
- (3) The hours of work, attendance regulations and provisions for sick leave and vacation leave.

Section 3. Officers, employees, etc., who handle money, shall be bonded. Every officer, agent and employee having duties embracing the receipt, disbursement, custody, or handling of money shall, before entering upon his duties, execute a surety

bond with some surety company authorized to do business in the State of Tennessee, as surety, in such amount as shall be prescribed by ordinance or this Charter. All such bonds and sureties shall be subject to the approval of the Mayor and Board of Commissioners, and the Mayor and Board of Commissioners may provide for blanket bonds. The cost of all bonds shall be an expense of the City.

## ARTICLE IX

### FINANCE

Section 1. Fiscal year. The fiscal year of the City shall begin on the first day of July and end on the last day of June.

Section 2. Annual departmental budgets required. The adoption of an annual budget for all departments shall be a prerequisite to the appropriation of money for municipal purposes and the levy of property taxes.

Section 3. City required to prepare and submit annual budget and explanatory message. At least sixty (60) days before the beginning of the fiscal year there shall be prepared and submitted to the Mayor and Board of Commissioners a budget for the ensuing fiscal year and an accompanying message. The message shall explain the budget both in fiscal terms and in terms of work programs. It shall outline the proposed financial policies of the City for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues together with the reasons for such changes, summarize the City's debt position and include such other materials as deemed desirable.

Section 4. Required content and organization of budget. The budget shall provide a complete financial plan of all City funds and activities for the ensuing fiscal year, and, except as required by law or this Charter, shall be in such form as deemed desirable by the Mayor and Board of Commissioners.

Section 5. Amendments to budget, when budget must be adopted, and effect of adoption. The Mayor and Board of Commissioners shall adopt the budget by ordinance. The Board may amend the budget by ordinance, but no amendment shall

decrease expenditures required by law for debt service. The budget shall be adopted for the ensuing fiscal year before the end of the current fiscal year. Adoption of the budget shall constitute appropriations of the amounts specified therein as expenditures from the funds indicated. The Mayor and Board of Commissioners shall also adopt an ordinance establishing a property tax levy.

Section 6. Supplemental appropriations. If during the fiscal year the City Recorder certifies that there are available for appropriation, revenues in excess of those estimated in the budget, the Mayor and Board of Commissioners may, by ordinance, make supplemental appropriations for the year up to the amount of such excess.

Section 7. Deficits. If at any time during the fiscal year it appears probable to the City Recorder that the revenues available will be insufficient to meet the amount appropriated, he shall report to the Board of Commissioners without delay, indicating the estimated amount of the deficit, any remedial action taken by him and his recommendations as to any other steps to be taken. The Mayor and Board of Commissioners shall then take such further action as it deems necessary to prevent or minimize any deficit and for that purpose it may by resolution reduce appropriations.

Section 8. Transfer of unencumbered appropriations. At any time during the fiscal year the Mayor and Board of Commissioners may transfer part or all of any unencumbered appropriation balance among programs within a department, office or agency and the Board of Commissioners may, by resolution, transfer part or all of any unencumbered appropriation balance from one department, office, or agency to another.

Section 9. Lapsing of appropriations. Every appropriation shall lapse at the end of the fiscal year to the extent that it has not been expended or encumbered.

Section 10. Incurrence and discharge of obligations. No payment shall be made or obligation incurred against any appropriation unless the head of the Department of Finance or an officer designated by him first certifies that an appropriation has been made for that purpose and that there is unexpended and

unencumbered in the appropriation for that purpose an amount sufficient to meet the obligation or to make the expenditure. However, except where prohibited by law, nothing herein shall be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the issuance of bonds or to prevent the making of any contract or lease providing for payments beyond the end of the fiscal year.

Section 11. Accounting records and audits. There shall be installed and maintained adequate accounting records in accordance with generally accepted principles of municipal accounting. The same account titles shall be used throughout the accounting records, the budget and financial statements. Constant and comprehensive budgetary control shall be maintained. An audit of the financial affairs of the City shall be required by action of the Mayor and Board of Commissioners and same be made after the end of each fiscal year by a public accountant skilled in such work. Any taxpayer may file a bill in chancery court to compel the Board of Commissioners to have the audit made if such accountant has not been employed within one (1) month after the end of the fiscal year.

## ARTICLE X

### TAXATION

Section 1. Assessment and levy. All property within the City not exempt by general law shall be assessed for taxation upon the same principles established in regard to state and county taxation.

Section 2. Due and delinquent dates: penalties and interest. Property taxes shall be payable on OR after October 1 in the year for which assessed and shall become delinquent on March 1 following. Unless otherwise provided by ordinance, an interest and penalty of one and one-half of one percent (1-1/2%) per month of the amount of the delinquent taxes shall also be added on the first day of March, in which the taxes become delinquent, and one and one-half of one percent (1-1/2%) shall be added on the first day of each month thereafter.



Section 3. Collection of delinquent taxes. The Mayor and Board of Commissioners may provide by ordinance for the collection of delinquent real property taxes by the Recorder as provided by general law, or by the City Attorney acting in accordance with general laws providing for the collection of delinquent city or county taxes. If not otherwise collected, the City Attorney, or other attorney designated by the Board of Commissioners, shall file suit for collection of all delinquent taxes not later than eighteen (18) months following date of delinquency.

Section 4. County may collect taxes. The City may contract with the county for the collection of city taxes in accordance with general law.

## ARTICLE XI

### CITY COURT

Section 1. City court established. A City Court is hereby established and granted jurisdiction over all infractions of municipal ordinances of the City of Niota.

Section 2. Appointment, qualifications, oath, compensation, and restrictions on office of City Judge. The City Judge shall be appointed by the Board of Commissioners at the first regular meeting following the regular city election of each even numbered year and shall-serve until the first regular meeting following the next general city election or until his successor is appointed and has taken his oath of office. Qualifications for the City Judge shall be established by ordinance by the Board of Commissioners. The City Judge shall be eligible for re-appointment. He shall take the same oath required of the Board of Commissioners. The Board of Commissioners shall establish the compensation of the City Judge by ordinance. The City Judge shall not be eligible to hold elective offices for the City of Niota.

Section 3. Duties and powers of the City Judge. The City Judge shall try all persons charged with violation of the ordinances of the City. He shall have the power to levy fines, penalties and forfeitures in accordance with such offense and to impose such costs as the Mayor and Board of Commissioners may by ordinance provide in accordance with the Municipal Court Reform Act of 2004 codified at

Tennessee Code Annotated, Title 16, Chapter 18, Part 3, and to issue all necessary process, to administer oaths, and to punish for contempt.

Section 4. Court policies and procedures. The policies and procedures governing the day to day operations of the court shall be provided by ordinance.

Section 5. City Judge to be the exclusive judge of law and facts. The City Judge shall be the exclusive judge of the law and facts in every case before him, and no official or employee of the City shall attempt to influence his decision except through pertinent facts presented in court.

## ARTICLE XII

### MISCELLANEOUS AND TRANSITIONAL PROVISIONS

Section 1. Corporate existence, existing ordinances and resolutions. The corporate existence of the City of Niota is continued. All existing ordinances, resolutions or other actions of the Board of Commissioners not inconsistent with this Charter shall remain in full force and effect until amended or repealed in the manner herein provided.

Section 2. Expiration of terms of elected officers. The Board of Commissioners in office when this act is ratified shall continue in office as the Board of Commissioners until their successors are elected and qualified.

Section 3. Legal effect of this Act. This act is declared to be a Public Act, and may be read in evidence in all courts of law and equity. All ordinances and resolutions and proceedings of the Board of Commissioners created by this Charter may be proven by the seal of such Corporation, attested by the Recorder, and, when printed and published by the authority of such Corporation and certified by the Recorder, shall be received in evidence in all courts and places without further proof.

Section 4. Severability. If any article, section, subsection, paragraph, sentence, or part of this Charter shall be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not effect or impair any other parts of this Charter unless it clearly appears that such other parts are necessarily dependent upon the part or parts held to be invalid or unconstitutional. It is the legislative intent

in enacting this Charter that each article, section, subsection, paragraph, sentence, or part be enacted separately and independently of each other.

Section 5. Gender. Wherever, in this Charter, "man, men, him, his" or their related pronouns may appear, either as words or as parts of words, they have been used for literary purposes and are meant in their generic sense.

SECTION 2. Nothing in this act shall be construed as having the effect of removing any incumbent from office or abridging the term of any official prior to the end of the term for which such official was elected.

SECTION 3. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the legislative body of the City of Niota. Its approval or nonapproval shall be proclaimed by the presiding officer of the legislative body and certified to the secretary of state.

SECTION 4. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective as provided in Section 3.